

NOTE: Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ FINAL ~

Meeting Summary Motor Vehicle Dealer Board Monday, July 12, 2010

Chairman Rick Holcomb called the Dealer Board meeting to order at 11:11 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 12 Board members present. Present were members Lynn Hooper, T. K. Hughes, Henry Jones, Wanda Lewark, Thomas Moorehead, Pat Patrick, Frank Pohanka, Matthew Queen, Kevin Reilly, Joe Tate and Tommy Woodson. (Absent: David Lacy, Chip Lindsay, Matt Lohr, Larry Shelor, Jimmy Whitten, Robert Woodall and Sally Woodson). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Alice Weedon acted as Recording Secretary.

PUBLIC COMMENT

There was no public comment.

The May 10, 2010 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Kevin Reilly summarized discussions held and actions that were taken during the Committee Meeting.

- **Omar J. White and City to City Auto Sales, LLC.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding Omar J. White and City to City Auto Sales, LLC. Based on that discussion, Mr. Reilly made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Omar J. White and City to City Auto Sales, LLC for alleged violations of VA Code Sections 46.2-1518 (requirement to display list of salespersons), 46.2-1529 (failure to properly maintain records), 46.2-1529.1 (failure to fully complete a buyer's order), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1543 (failure to submit registration fees to DMV), 46.2-1548 (dealer plate records) and 46.2-1550 (improper use of or permitting the improper use dealer's license plates). Based on due consideration, the Board believes a civil penalty should be assessed against Omar J. White and City to City Auto Sales, LLC. The Board hereby assesses a \$1,500 civil penalty against Omar J. White and City to City Auto Sales, LLC; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. White in running his dealership. The Board mandates that Mr. White successfully complete the dealer-operator course by October 12, 2010. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. White by the Board until what time Mr. White has successfully completed the course.

Matt Queen seconded. The motion carried unanimously.

- **Charlie A. Absher and Absher Sales.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding Charlie A. Absher and Absher Sales. Based on that discussion, Mr. Reilly made the following motion: The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Charlie A. Absher and Absher Sales for alleged violations of VA Code Sections 46.2-1529.1(A) (failure to disclose the Federal Buyer's Guide), 46.2-1532 (odometer disclosure), 46.2-1542 (failure to properly issue temporary tags), 46.2-1543 (failure to submit fees in transferring old license plates and registration number on another vehicle), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1561 (failure to submit application for titles, plates and fees to DMV within 30 days), 46.2-1574 (licensee responsible for the act of his employees) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning/willful failure to comply), (4) (Defrauding any retail buyer to the buyer's damage), (6) (having used deceptive acts or practices), and (14) (failure to submit to the DMV within 30 days from the date of sale, any application, tax or fee collected for DMV). Based on due consideration, the Board believes a civil penalty should be assessed against Charlie A. Absher and Absher Sales. The Board hereby assesses a \$5,000 civil penalty against Charlie A. Absher and Absher Sales; and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Absher should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Absher.

Tommy Woodson seconded. All in favor: 10 (Pohanka, Lewark, Hooper, Hughes, Jones, Moorehead, Patrick, Reilly, Tate and T. Woodson). Opposed: 2 (Holcomb & Queen). The motion carried.

Jerry Farmer and Farmer Automotive Sales and Service. Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding Jerry Farmer and Farmer Automotive Sales and Service. Based on that discussion, Mr. Reilly made the following motion: Be it resolved that in accordance with the authority given to the Board to modify the minimum hours requirements as set-out in VA Code Section 46.2-1533, that Jerry Farmer, Inc. T/A Jerry's Automotive Sales and Service (dealer # 833) be granted a variance from the requirement of being opened for business at least 10 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday provided that the dealership be open a minimum of 5 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday and a total of 20 hours each week. This variance shall be in effect through September 30, 2011.

Henry Jones seconded. The motion carried unanimously.

Licensing Committee

Vice-Chairman Lynn Hooper summarized discussions held and actions that were taken during the Committee Meeting.

- **Jeff Smelly and his Dealer-Operator Re-Certification Course Proposal.** Vice-Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding Jeff Smelly and his Dealer-Operator Re-Certification Course Proposal. Based on that discussion, Mr. Hooper made a motion to approve Mr. Smelly's proposal.

Joe Tate seconded. The motion carried unanimously.

- **George S. Ambrose and Brothers Automotive Sales & Service.** Vice-Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding George S. Ambrose and Brothers Automotive Sales & Service. Based on that discussion, Mr. Hooper made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning George S. Ambrose for alleged violations of VA Code Sections 46.2-1575(6) (having used deceptive acts or practices) and 46.2-1575(13) (having been convicted of a felony). Based on due consideration, the Board believes no action should be taken against George S. Ambrose. The Board hereby takes no further action against George S. Ambrose.

T.K. Hughes seconded. The motion carried unanimously.

At this time, Mr. Holcomb referred this issue to Dealer Practices for the September meeting, due to some irregularities discovered by the Board staff. A inspection will be conducted and presented in September.

- **Mohammad T. Sharifi, Salesperson.** Vice-Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding Mohammad T. Sharifi. Based on that discussion, Mr. Hooper made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mohammad T. Sharifi for alleged violations of VA Code Sections 46.2-1575 (6) (having used deceptive acts or practices) and (13) (having been convicted of a felony). Based on due consideration, the Board believes no action should be taken against Mohammad T. Sharifi. The Board hereby takes no further action against Mohammad T. Sharifi.

T.K. Hughes seconded. The motion carried unanimously.

- **Robert W. Carver, Salesperson.** Vice-Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding Robert W. Carver. Based on that discussion, Mr. Hooper made the following motion: The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Robert W. Carver for alleged violations of VA Code Sections 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply), (6) (having used deceptive acts or practices), (9) (having been convicted of any criminal act involving the business of selling vehicles) and (14) (failure to submit to the Department, within thirty days from the date of any sale, any application, tax or fee collected for the Department on behalf of a buyer). Based on due consideration, the Board believes Robert W. Carver's application to transfer his salesperson's license be approved. The Board hereby approves the transfer of Robert W. Carver's salesperson's license; and based on due consideration, the Board believes that Mr. Carver's dealer-operator certificate of qualification should be revoked. The Board hereby revokes Mr. Carver's dealer-operator certificate of qualification.

Thomas Moorehead seconded. All in favor: 9 (Hooper, Hughes, Jones, Moorehead, Patrick, Queen, Reilly, Tate and T. Woodson). Opposed: 2 (Holcomb & Pohanka). Abstained: 1 (Lewark). The motion carried. Note: Ms. Lewark abstained due to a prior business deal with Mr. Carver.

Advertising Committee

Chairman Lynn Hooper summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Vice-Chairman Henry Jones summarized discussions held and actions that were taken during the Committee Meeting.

- **Ronnie & Carolyn Compton and Turner Chevrolet, Inc.** Vice-Chairman Henry Jones summarized for the Board the discussion held in the committee meeting regarding Ronnie and Carolyn Compton and Turner Chevrolet, Inc. Based on that discussion and the recommendations in these cases, Mr. Jones made the following motion: Pursuant to VA Code Section 46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund (“Fund”), the Board has reviewed and considered a claim submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amount subject to compliance by the claimant with statutory requirements:

Ronnie & Carolyn Compton and Turner Chevrolet Inc. \$8,064.47

Matt Queen seconded. All in favor: 11 (Holcomb, Pohanka, Lewark, Hooper, Hughes, Jones, Moorehead, Patrick, Queen, Reilly and T. Woodson). Opposed: 1 (Tate). The motion carried.

- **Louise M. Gaines & Monique Gonzalez and Auto Express of Manassas, Inc.** Vice-Chairman Henry Jones summarized for the Board the discussion held in the committee meeting regarding Louise M. Gaines and Monique Gonzalez and Auto Express of Manassas, Inc. Based on that discussion and the recommendations in this case, Mr. Jones made the following motion: Pursuant to VA Code Section 46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund (“Fund”), the Board has reviewed and considered the claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the claims should not be payable from the Fund.

Joe Tate seconded. The motion carried unanimously.

OLD BUSINESS

There was no old business.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **Transportation Reform Matrix.** Bruce Gould indicated that during his Gubernatorial campaign, Governor Bob McDonnell made a commitment to reform the Commonwealth’s transportation programs. In response to the Governor’s commitment, the staff of the Secretary of Transportation has been compiling a list of ideas for making our laws and programs more efficient and effective. These ideas cover all modes of our transportation system and have been collected from a side variety of sources. It is the Secretary’s goal to complete a finalized list of ideas around which a consensus can be forms. The finalized list will be presented to the Governor later this year.

The table below summarizes the Motor Vehicle Dealer Board's position on each of the items/ideas.

Initiative Number and Title	Comments
54. Idea Title: Motor Vehicle Dealer Board; regulate all motor vehicle dealers	The consensus of the Board was not to support this idea. Reasons stated for opposing this idea included: Would require much effort to implement along with the other ideas and the other ideas would have a much greater positive impact. Should focus on the other seven ideas. Effort to restructure and additional burden would not be worth efficiencies gained. Would over stretch staff. Not advantageous to the motorcycle and other dealers and to consumers. Issues for the other dealer types are different and would over extend Board members areas of expertise.
65. Idea Title: MVDB Membership	Support
66. Idea Title: Setting Fees	Support
67. Idea Title: Setting Fees and Cost Recovery	Support
68. Idea Title: Transaction recovery Fund - Technical Clarification	Support
69. Idea Title: Transaction Recovery Fund - Revenue for Consumer Assistance	Support
70. Idea Title: Internet Access	Support. Should take this opportunity to determine if there should be additional requirements.
71. Idea Title: Retention of Records - Technical Clarification	Support. Must allow for electronic retention and record keeping. Especially as it relates to the safety inspection receipt.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting will be scheduled for September 13, 2010.

- **Executive Director's Report.** Bruce Gould indicated the fiscal year ended on a good note. The final numbers will be provided at a later date. The transformation with VITA/NG continues and work will continue to get this transformation completed by the December 31, 2010 deadline. In the past, a representative of the MVDB attends a meeting of our peers (National Association of Motor Vehicle Boards and Commissions). This year it will be in October and in Biloxi, Mississippi and the cost will be about \$1,500.00.

Motion was made by Henry Jones to allow Bruce Gould or his designee to attend the yearly meeting of his peers in Mississippi. Frank Pohanka seconded. The motion carried unanimously.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 12:17 p.m.

Meeting Summary
Dealer Practices Committee
Monday, July 12, 2010

Chairman Kevin Reilly called the Dealer Practices Committee meeting to order at 9:00 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members T.K. Hughes, Wanda Lewark, Thomas Moorehead, Matt Queen and Tommy Woodson. (Absent: David Lacy, Chip Lindsay, Larry Shelor, Robert Woodall and Sally Woodson). Other Board members present: Joe Tate, Frank Pohanka, Rick Holcomb, Lynn Hooper, Henry Jones and Pat Patrick. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board.

The May 10, 2010 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: May Actions. The Chairman mentioned that the actions taken at the Dealer Practices Committee meeting on May 10, 2010 were available for review in the notebook.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Omar J. White and City to City Auto Sales, LLC.** On June 9, 2010, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1518 (display of salesperson's license; notice of termination), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1529.1 (sales of used motor vehicles by dealers), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1543 (failure to submit fees in transferring old license plates and registration number on another vehicle), 46.2-1548 (dealer plate records required) and 46.2-1550 (improper use of or permitting the improper use dealer's license plates). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,750 for violations of 46.2-1529, 1529.1, 1537, 1548 and 1550. Further, if Mr. White agrees to attend the Dealer-Operator course, the hearing officer recommended a reduction in the penalties to \$250.00 and City to City Auto Sales should have routine inspections for compliance.

Motion was made by T.K. Hughes to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Charlie A. Absher and Absher Sales.** Historical overview leading up to the formal hearing: On January 5, 2010, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529.1(A) (failure to disclose the Federal Buyer's Guide), 46.2-1532 (odometer disclosure), 46.2-1542 (failure to properly issue temporary tags), 46.2-1543 (failure to submit fees in transferring old license plates and registration number on another vehicle), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1561 (failure to submit application for titles, plates and fees to DMV within 30 days), 46.2-1574 (the licensee or registrant shall be responsible for the act of any of his salespeople) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply), (4) (Defrauding any retail buyer to the buyer's damage), (6) (having used deceptive acts or practices), and (14) (failure to submit to the DMV within 30 days from the date of sale, any application, tax or fee collected for DMV). At the March 8, 2010 Dealer Board Committee and Full Board Meeting, the Committee adopted a resolution to assess a civil penalty of \$5,000 and that all licenses issued by the Board to Mr. Absher should be revoked. On April 6, 2010, Mr. Absher appealed and requested a formal hearing. On June 15, 2010, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the conference, the hearing officer recommended revoking all licenses issued to Absher Sales and Mr. Absher without an opportunity for renewal, indefinitely and to assess a civil penalty of \$10,000.00.

Motion was made by Tommy Woodson to accept the hearing officer's recommendation. T.K. Hughes seconded.

Substitute motion was made by T.K. Hughes to reduce the civil penalty to \$5,000. Wanda Lewark seconded. All in favor: 5 (Reilly, Woodson, Hughes, Lewark, Moorehead). Opposed: 1 (Queen). The motion carried.

NEW BUSINESS FROM THE FLOOR

- **Jerry Farmer and Jerry's Automotive Service and Sales.** Bruce Gould reported that for the past 12 years, Jerry Farmer has requested a variance in hours for his dealership, Jerry's Automotive Sales and Service, because of his teaching schedule.

Motion was made by Kevin Reilly to grant Mr. Farmer his variance in hours. T.K. Hughes seconded. The motion carried unanimously.

- **Modification of the Disclosure on the Buyer's Order.** Bruce Gould indicated that the General Assembly passed a bill in 2009 to modify the disclosure on the buyer's order for dealer arranged financing. As of July 1, 2010 this change went into effect. Frank McCormick indicated that per informal survey by the field representatives, about 80% of the dealers are not in compliance of the change. The field representatives are working with the dealers to get them in compliance. Bruce asked that after giving warnings, staff should assess a civil penalty similar to the procedure used for dealers who are not maintaining business hours if the dealer continues to ignore this change. After receiving warnings, dealers should either pay the penalty or request a hearing. General consensus was to allow staff to take the appropriate action if the dealer is not in compliance.

The next meeting was scheduled for September 13, 2010.

The meeting adjourned at 9:24 a.m.

Meeting Summary Dealer Licensing Committee Monday, July 12, 2010

Vice-Chairman Lynn Hooper called the Dealer Licensing Committee meeting to order at 9:25 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members T.K. Hughes, Henry Jones, Pat Patrick, Frank Pohanka and Joe Tate. (Absent: Chip Lindsay, Jimmy Whitten, Robert Woodall). Other Board members present: Rick Holcomb, Thomas Moorehead, Wanda Lewark, Kevin Reilly, Matt Queen and Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board.

The May 10, 2010 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: May Actions.** The Chairman mentioned that the actions taken at the Licensing Committee meeting on May, 10 2010 were available for review in the notebook.
- **Update: Dealer-Operator Continuing Education.** Bruce Gould indicated that early last week, the Governor signed off on the proposed regulations and the next step, which Bruce has already completed, is to submit the proposed regulations to the Virginia Register of Regulations. The regulations will be published on August 2 and will be effect 30 days after publishing. These regulations will require independent dealer-operators to re-certify every 3 years. This can be accomplished in two ways: (1) taking a test or (2) successfully completing a course that the Board has approved. Staff is working with two vendors to present courses and one will be making a presentation right after this update. Bruce, with the assistance of Bob Martin, is exploring ways to administer the test. One option is to administer the test at DMV CSC's.
- **Dealer-Operator Re-Certification Course Proposal.** Jeff Smelly presented to the Committee members his proposal referencing re-certifying independent dealer-operators. He indicated that he is developing a course that can be taken via the internet. He discussed course fees, course objectives, course content, course administration and record keeping. He indicated that he would be the primary provider and presenter of the course.

Motion was made by Joe Tate to approve Mr. Smelly's proposal. Henry Jones seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR:

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **George S. Ambrose and Brothers Automotive Sales & Services.** On May 5, 2010, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575(6) (having used deceptive acts or practices) and 46.2-1575(13) (having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended that Mr. Ambrose successfully complete the Dealer-Operator course.

Mr. Ambrose was present and available for questions.

Motion made by Joe Tate to not take any action against Mr. Ambrose. Henry Jones seconded. The motion carried unanimously.

- **Mohammad T. Sharifi, Salesperson.** On May 3, 2010, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (6) (having used deceptive acts or practices) and (13) (having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended that Mr. Sharifi retain his salespersons license.

Motion was made by Pat Patrick to accept the hearing officer's recommendation. Joe Tate seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Robert W. Carver, Salesperson.** Historical overview leading up to the formal hearing: On January 19, 2010 an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (2) (willful failure to comply), (6) (having used deceptive acts or practices), (9) (having been convicted of any criminal act involving the business of selling vehicles) and (14) (failure to submit to the Department, within thirty days from the date of any sale, any application, tax or fee collected for the Department on behalf of a buyer). Based on the information provided at the conference, the hearing officer recommended that Mr. Carver should be denied a license. In a letter dated February 12, 2010, the executive director determined that Mr. Carver's application for a motor vehicle salesperson's license should be denied. In a letter dated February 17, 2010, Mr. Carver appealed the executive director's decision and requested a formal hearing. On March 16, 2010, a formal hearing was conducted to address the alleged violations of VA Code Sections 46.2-1575 (2) (willful failure to comply), (9) (having been convicted of any criminal act involving the business of selling vehicles) and (14) (failure to submit to the Department, within thirty days from the date of sale, any application, tax or fee collected for the Department on behalf of a buyer). Based on the information provided at the conference, the hearing officer recommended that Mr. Carver should be denied a license to sell motor vehicles in the Commonwealth of Virginia.

Mr. Carver was present and spoke on his own behalf.

Motion made by T.K. Hughes to allow Mr. Carver to retain and transfer his salespersons license, but to revoke his Dealer-Operator Certificate of Qualification. Joe Tate seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 13, 2010.

The meeting adjourned at 10:33 a.m.

Meeting Summary
Advertising Committee
Monday, July 12, 2010

Chairman Lynn Hooper called the Advertising Committee meeting to order at 10:34 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Matt Queen, Kevin Reilly, Joe Tate and Tommy Woodson. (Absent: Matt Lohr, Larry Shelor, Jimmy Whitten, Sally Woodson). Other Board members present: T.K. Hughes, Henry Jones, Wanda Lewark, Thomas Moorehead, Pat Patrick, Frank Pohanka, Rick Holcomb. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board.

The May 10, 2010 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Lynn Hooper reviewed and discussed the Advertising Report with the Committee members.

- **Violation Letter Re-formatted.** Mr. Hooper discussed the reformat of the civil penalty letter sent to the dealers when they have violated the Advertising Laws and Rules and Regulations. The letter will now require a written request by the dealership including a deadline date. The request indicates the dealer should include the steps that have been taken to resolve the violations. Lack of response will place the agency in a position to take appropriate action, including the suspension or revocation of all dealer and/or salesperson licenses.

The next meeting was scheduled for September 13, 2010.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:36 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, July 12, 2010

Vice-Chairman Henry Jones called the Transaction Recovery Fund Committee meeting to order at 10:37 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Wanda Lewark, Pat Patrick, Frank Pohanka, Matt Queen and Joe Tate. (Absent: Larry Shelor, David Lacy, Matt Lohr). Other Board members present: Rick Holcomb, Thomas Moorehead, T.K. Hughes, Lynn Hooper, Kevin Reilly, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board.

The May 10, 2010 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

- **Ronnie & Carolyn Compton and Turner Chevrolet, Inc.** On September 17, 2007, Ronnie Compton entered into a written contract to purchase a 2006 Chevrolet Tahoe from Turner Chevrolet for a total purchase price of \$28,256.07. Mr. Compton traded-in a 1999 Isuzu Trooper valued at \$3,000 with a clear title and a 2007 Dodge Nitro with an outstanding lien to Community Trust for \$19,434.07. Mr. Compton was given an allowance of \$19,000.00 for the Dodge leaving a minus equity of \$434.07. As part of the contract, Turner indicated they would pay-off the existing loan on the Dodge as well as finance his purchase on the 2006 Tahoe through Community Trust Bank. Turner completed the Buyer's Order and Retail Installment Contract reflecting the trade-in allowance of the Dodge, but they did not credit the 1999 Isuzu as being part of the transaction.

Approximately two weeks after the purchase was completed, Mr. Compton heard that Mr. Turner had been killed in an automobile accident and about a month after that, he learned that there were some possible problems with some of the deals that Mr. Turner had made shortly before his death. Mr. Compton found out that Turner had not paid off his loan on the Dodge and that he needed to continue making payments on his trade. Beginning in December of 2007 Mr. Compton continued making payments on the trade for 17 months at \$353.91 month totaling \$6,016.47 before being able to sell the vehicle for the remaining balance of \$13,417.60.

Turner Chevrolet was now being run by representatives of New Peoples Bank. In February of 2008, Mr. Compton returned to the dealership to regain possession of the 1999 Isuzu only to find out that Peoples Bank had sold it. On January 17, 2008, Allison Mullins, counsel for the Compton's, filed a Warrant in Debt against Turner Chevrolet in the Dickenson General District Court in the amount of \$15,000.00 plus \$48.00 in costs. On February 19, 2008, the Dickenson General District Court awarded the Compton's a default judgment against Turner Chevrolet in the amount of \$15,000.00 plus \$48.00 in costs. On February 19, 2009 Ms. Mullins submitted her client's claim for consideration of payment from the Fund. On February 23, 2009, the Dealer Board staff acknowledged receipt of their claim and requested additional documentation in order to complete the review process of the claim.

On April 19, 2010, the Dealer Board staff received from Mr. Compton the requested additional documentation. Regarding the 1999 Isuzu Trooper, Turner Chevrolet did not reflect the Isuzu Trooper as being credited towards the purchase and the floor planner (New Peoples Bank) had sold the Trooper. On May 6, 2010, Mr. Compton called and provided the Dealer Board staff with the Isuzu's ID number and staff was able to retrieve a complete history including the sale of the vehicle on 12/21/07 by New Peoples Bank to an individual for \$2,000.00.

On May 21, 2010 an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended paying the Compton's \$8,064.47 (\$6,016.47 for their payments of the Dodge and \$2,000.00 for Isuzu and \$48.00 in court cost).

Motion was made by Pat Patrick to accept the hearing officer's recommendation. Frank Pohanka seconded. All in favor: 5 (Jones, Lewark, Queen, Patrick, Pohanka). Opposed: 1 (Tate). The motion carried.

- **Louise M. Gaines and Monique Gonzalez and Auto Express of Manassas, Inc.** On December 16, 2006, Ms. Gonzalez and her husband Gerardo Gonzalez went to Auto Express. After inquiring about financing, checking both of their credit, it was determined that Mr. Gonzalez could not co-sign for the vehicle. Therefore, Mrs. Gonzalez asked her Mother Louise Gaines to co-sign. After obtaining and giving her Mother's information to the salesperson, all looked good and they decided to purchase a 2005 Ford F-150. Ms. Gonzalez completed the paperwork and the purchase price of the 2005 Ford F-150 was \$35,760.74. They made a cash deposit of \$1,000 leaving a balance of \$34,760.74 plus fees making the total amount to finance \$36,156.24. After taking possession of the truck and upon receiving the co-signer signature, the salesperson indicated they would receive the paperwork within a couple of days. After that day, they still had not received any papers or tags to the truck. When the temporary tags were about to expire, they went to the dealership and Auto Express issued them a second set but they still did not receive their paperwork. By the end of January 2007, they received their plates and this is when they realized the truck had been titled and registered in Louise Gaines' name. Mrs. Gonzalez contacted the lien holder (Drive Financial) on numerous occasions to resolve the matter and indicated that her Mother was the co-signer on the loan only. After failed attempts to correct the matter, the only option now was to keep the vehicle in her Mother's name. Mrs. Gonzalez continued to make payments for two years and then in December of 2008 she had gotten behind on the payments. Shortly after that, Ms. Gaines began receiving harassing calls about the loan being delinquent.

After a failed attempt to obtain financing on her own with Drive Financial and their unwillingness to work with her, Drive Financial repossessed the truck on June 6, 2009 and has since sold it. They are now holding her Mother liable for the difference of the loan. Ms. Gaines and Mrs. Gonzalez then sought legal counsel in order to pursue the dealer civilly in court. It was alleged Auto Express of Manassas had led Mrs. Gonzalez to believe she was purchasing the Ford F-150 and her Mother was co-signer for the loan in order for her daughter to qualify for the purchase. They both signed a purchase order, credit contract and other documents. They later learned the Ford-150 was titled and registered in Louise Gaines name only. Counsel for Gonzalez and Gaines, Cary P. Moseley, Esquire, believes that his client's were victims of a classic "bait and switch".

Only July 31, 2009, Mr. Moseley filed a Warrant in Debt in the Lynchburg General District Court against Auto Express in the amount of \$15,000.00. Basis of the claim was for fraud, violations of VCPA and attorney fees. On August 5, 2009, Mr. Moseley submitted to the Dealer Board a copy of the Warrant in Debt and a copy of the letter to counsel (Jeff Mangeno) for Auto Express indicating that his client's case were victims of a classic car dealer "Bait and Switch" scheme. On February 17, 2010, the Lynchburg General District Court awarded Louise Gaines and Monique Gonzalez a default judgment against Auto Express of Manassas in the amount of \$15,000 plus \$68.00 in costs. On April 20, 2010, counsel submitted to the Dealer Board documentation for consideration of payment from the Fund.

On April 22, 2010, the Dealer Board staff, via e-mail to the Mr. Moseley, requested additional documentation in order to complete the review process of Louise Gaines and Monique Gonzalez claim against the Fund. On April 25, Mr. Moseley responded via e-mail indicating that his client's were not given a copy of the Buyer's Order or any other documentation regarding the purchase. On April 28, 2010, Dealer Board staff sent a letter to Mr. Moseley in further regards to his client's claim and suggested other documentation that could be submitted as proof of purchase and requested a breakdown of what the Court based the judgment amount on. On May 3, 2010, Counsel submitted to the Dealer Board a Virginia registration issued to Louise Gaines, proof of insurance for Monique Gonzalez and the Retail Installment Contract (RISC) for Louis Gaines as proof of purchase regarding his client's claim. On May 4, 2010, Dealer Board staff requested microfilm documentation from the DMV to verify what was submitted in order to title and register the Ford F-150 in Virginia. The Warrant in Debt that was filed in the general district court did not indicated on the face that this was a case of alleged fraud in connection with the purchase of a motor vehicle from a licensed dealer and there was no documentary evidence presented on this issue. Given the facts and the statutes governing the Fund, it appeared to staff that Louise Gaines and Monique Gonzalez would not be eligible for any monetary relief from the Fund.

On June 16, 2010, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that this claim be denied.

Motion was made by Pat Patrick to accept the hearing officer's recommendation. Matt Queen seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 13, 2010.

The meeting adjourned at 10:58 a.m.